

August 08, 2025

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**BY: vl
DEPUTY

MATTHEW ANDREW GARCES, §

Plaintiffs, Pro Se, §

v. §

City of San Antonio, SAPD Officer §
Ricardo Carrera Pineyro, Badge §
#1363, SAPD Officer Mark Avila, §
Badge #3600, and National General §
Insurance Company (an Allstate §
company), §*Defendants.* §CASE NO.: **5:25-CV-00388-OLG****PLAINTIFF'S OBJECTION TO ORDER DENYING OBJECTIONS TO
RULE 26(f) REPORT AND PROPOSED SCHEDULING ORDER (DKT. 31)****TO THE HONORABLE CHIEF JUDGE OF THE WESTERN DISTRICT OF
TEXAS:**

Plaintiff **MATTHEW ANDREW GARCES**, proceeding *pro se*, files this
 Objection to Judge Orlando L. Garcia's Order (Dkt. 31) denying Plaintiff's
 Objections to Defendants' Rule 26(f) Report and Proposed Scheduling Order. This
 Order perpetuates a pattern of judicial retaliation, ignores binding precedent,
 violates due process, and constitutes reversible error under **Fed. R. Civ. P. 72(a)**
 and **28 U.S.C. § 636(b)(1)(A)**.

I. JURISDICTION & STANDARD OF REVIEW

This Objection is filed pursuant to **Fed. R. Civ. P. 72(a)** (authorizing objections to nondispositive orders) and the Court’s inherent authority to correct manifest errors of law. *De novo* review is required because the Order:

- (A) Ignores controlling Fifth Circuit precedent on discovery stays;
- (B) Violates due process by endorsing Defendants’ bad-faith tactics;
- (C) Continues a documented pattern of judicial retaliation.

See Gómez v. United States, 490 U.S. 858, 876 (1989) (constitutional errors warrant *de novo* review).

II. THE ORDER ERRONEOUSLY APPROVES DEFENDANTS’ DISCOVERY ABUSE

A. Qualified Immunity Does Not Justify a Blanket Discovery Stay

Judge Garcia’s Order tacitly endorses Defendants’ refusal to engage in discovery pending immunity resolution—a position squarely contradicted by binding authority:

1. **Fifth Circuit Precedent:**

- *Wicks v. Miss. State Emp’t Servs.*, 41 F.3d 991, 994 (5th Cir. 1995):

“Limited discovery may be necessary before the district court can resolve a qualified immunity defense.”

- *Backe v. LeBlanc*, 691 F.3d 645, 648 (5th Cir. 2012): Discovery must

be tailored where immunity turns on disputed facts.

Defendants' refusal to produce even **Rule 26(a)(1)** initial disclosures flouts these mandates.

2. Sovereign Immunity Is Legally Frivolous:

SAPD is a non-jural entity incapable of asserting sovereign immunity. *Darby v. Pasadena Police Dep't*, 939 F.2d 311, 313 (5th Cir. 1991). Defendants' position warrants sanctions under **28 U.S.C. § 1927**.

B. Defendants' Rule 26(f) Violations Are Sanctionable

The Order ignores Defendants' willful noncompliance with **Fed. R. Civ. P. 26(f)**:

1. **Failure to Preserve Evidence:** Defendants denied preservation obligations despite known ESI related to falsified police reports, violating *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 217 (S.D.N.Y. 2003).

2. **Bad-Faith Conferral:** Boilerplate "No" responses to 12/14 Rule 26(f) questions defy the "spirit of cooperation" required by *In re Pioneer Hi-Bred Int'l, Inc.*, 238 F.3d 1370, 1375 (Fed. Cir. 2001).

III. JUDICIAL RETALIATION VIOLATES DUE PROCESS

The Order continues a pattern of retaliation documented in Plaintiff's prior

filings:

A. Documented Retaliatory Conduct

1. **Expedited Dismissals:**

Judge Garcia and Magistrate Chestney issued same day case dismissals after Report and Recommendations in multiple cases (e.g., SA-25-CV-609, SA-25-CV-636), denying Plaintiff the **14-day objection period** required by **28 U.S.C. § 636(b)(1)**. *Smith v. Manns*, 929 F.3d 986, 988 (8th Cir. 2019) (rushed rulings violate due process).

2. **Retaliatory Sanctions Threats:**

The Order's sanctions warning (Dkt. 28, 31) followed Plaintiff's lawsuit against judicial officers in *Garces v. Biery* (No. 5:25-CV-609), constituting retaliation under *Kentucky v. Graham*, 473 U.S. 159, 166 (1985).

B. Legal Standard for Judicial Bias

1. **28 U.S.C. § 455(a)**: Recusal is required where "impartiality might reasonably be questioned."

2. **Fifth Circuit Test**: An objective observer aware of the facts would doubt the court's impartiality. *Parker v. Conn. State Dep't of Educ.*, 222 F. App'x 469, 471 (5th Cir. 2007).

Judge Garcia’s refusal to address these issues violates *Liteky v. United States*, 510 U.S. 540, 555 (1994) (“deep-seated antagonism” requires recusal).

IV. THE ORDER VIOLATES TEXAS AND FEDERAL DUE PROCESS

A. Structural Error Under the Fifth Amendment

Proceeding before a biased tribunal is structural error. *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 825 (1986). Texas law mirrors this standard: *In re Union Pac. Res. Co.*, 969 S.W.2d 427, 428 (Tex. 1998) (recusal required for “reasonable doubt” about impartiality).

B. Failure to Apply Rule 1 and Rule 26

The Order disregards:

- **Fed. R. Civ. P. 1:** Mandates “just, speedy, and inexpensive” resolution.
- **Fed. R. Civ. P. 26(b)(1):** Discovery scope includes “any nonprivileged matter relevant to any party’s claim.”

Defendants’ obstructionism and the Court’s endorsement violate these rules. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45–46 (1991) (courts must curb bad-faith tactics).

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

1. **VACATE** the Order (Dkt. 31) denying Plaintiff's Objections;
2. **ADOPT** Plaintiff's Proposed Scheduling Order;
3. **COMPEL** Defendants to produce **Rule 26(a)(1)** disclosures
within 7 days;
4. **SANCTION** Defendants under **Rule 37(b)(2)(A)** for discovery abuse;
5. **RECUSE** Judge Garcia and Magistrate Chestney under **28 U.S.C. §**
455(a);
6. **REASSIGN** this case to an impartial Article III judge.

VERIFICATION

I, Matthew Andrew Garces, declare under penalty of perjury that the foregoing is true and correct. Executed on August 8, 2025.

Respectfully submitted,

/s/ Matthew Garces

Matthew A. Garces, RN, CEO, *Pro Se*

CERTIFICATE OF SERVICE

I certify service via CM/ECF on August 8, 2025.

Respectfully submitted,

/s/ Matthew Garces

Matthew A. Garces, RN, CEO, *Pro Se*